

KEVIN FLAUTT, Bar No. 257892
kevin.flautt@bbklaw.com
OLIVIA CLARK, Bar No. 316689
olivia.clark@bbklaw.com
BEST BEST & KRIEGER LLP
500 Capitol Mall, Suite 2500
Sacramento, California 95814
Telephone: (916) 325-4000
Facsimile: (916) 325-4010

Attorneys for Defendant(s)
TRUCKEE SANITARY DISTRICT, BLAKE
TRESAN, and BRIAN SMART

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

STUART DOUGLASS, JOHN MAXEY, and
MARY MARSH LINDE,

Plaintiffs,

V.

TRUCKEE SANITARY DISTRICT, a Public Corporation, BLAKE TRESAN, individually and in his official capacity; BRIAN SMART, individually and in his official capacity; And DOES 1-10 inclusive

Defendants.

Case No. 2:25-cv-01609-AC

**DEFENDANTS' *EX PARTE* REQUEST
FOR EXTENSION OF TIME TO FILE
RESPONSIVE PLEADING PURSUANT
TO LOCAL RULE 144(C) and
[PROPOSED] ORDER (FRCP 6)**

Dept: Courtroom 26
Magistrate Judge: Allison Claire

Defendants Truckee Sanitary District, Blake Tresan, and Brian Smart (collectively, "Defendants") respectfully request a brief extension of time for their initial response date to provide a response to Plaintiffs Stuart Douglass, John Maxey, and Mary Marsh Linde (collectively, "Plaintiffs") First Amended Complaint filed August 7, 2025 ("FAC", Dkt. No. 10) by fourteen (14) calendar days so that Defendants' response will be due on or before Thursday, September 11, 2025. In fairness, Defendants also ask that the Court grant Plaintiffs seven (7) additional calendar days to respond. In speaking with Plaintiffs' counsel, **Plaintiffs will not agree to a stipulation but "will not file a written opposition."** (Declaration of Olivia Clark ISO Request for Extension to File Response to Plaintiffs' FAC ("Clark Decl."), ¶ 8 and Exh. A.)

1 The Court, may, at its discretion, grant an initial extension ex parte upon the affidavit of
2 counsel that a stipulation extending time cannot be reasonably obtained, explaining the reasons why
3 such a stipulation cannot be obtained, and explaining the reasons why the extension is necessary.
4 (Local Rules for the United States District Court Eastern District of California (“Local Rules”),
5 Rule 144(c).) Pursuant to Federal Rules of Civil Procedure (“FRCP”) a court may, for good cause,
6 extend the time for a response if a request is made before the original time expires. (FRCP
7 6(b)(1)(B).) FRCP Rule 6(b), governing extensions of time, must be “liberally construed to
8 effectuate the general purpose of seeing that cases are tried on the merits.” (*Ahanchian v. Xenon
9 Pictures, Inc.* (9th Cir. 2010) 624 F.3d 1253, 1255. “Good cause” is a non-rigorous standard that
10 has been construed broadly across procedural and statutory contexts.” (*Id.* at 1259.)

11 Defendants submit this request for extension prior to the deadline for the responsive
12 pleading, which is Thursday, August 28, 2025. This requested extension follows Defendants’ good
13 faith stipulation to Plaintiffs’ request for leave to file a First Amended Complaint, when amendment
14 was past the statutory deadline to do so. (Dkt. Nos. 8-9; FRCP 15.) As part of such initial stipulation,
15 Defendants were initially ordered to respond within 21 days to the FAC. (Dkt. No. 9.) This request
16 is the initial request for an extension of time to respond to the FAC.

17 There is good cause for Defendants’ request. Defendants diligently sought a stipulation
18 from opposing counsel prior to the filing of this ex parte application. (Clark. Decl., ¶¶ 2-8.) On
19 Friday, August 22, 2025, when it first became clear that the August 28, 2025, filing date would
20 cause scheduling conflicts and document processing issues, Defendants’ counsel Olivia Clark
21 emailed Plaintiffs’ counsel Michael Mapes at midday asking for a seven (7) calendar day extension
22 in exchange for Plaintiffs receiving an equal extension on their response and offering to prepare the
23 stipulation and proposed order to effectuate the matter. (*Id.* at ¶ 2 and Exh. A.) Ms. Clark followed-
24 up shortly after with a phone call to Mr. Mapes’s office and, receiving no answer, left a message to
25 the same effect. (Clark Decl., ¶ 3.) Receiving no answer and time being of the essence, Ms. Clark
26 prepared the proposed stipulation and proposed order and emailed it to Mr. Mapes. (*Id.* at ¶ 4 and
27 Exh. A.) Mr. Mapes did not reply. (*Ibid.*)

28 On Monday, August 25, 2025, at approximately 10:00am, Defendants’ counsel Ms. Clark

1 called Mr. Mapes's office again, received no answer, and left a message making the same ask.
2 (Clark Decl., ¶ 5.) Ms. Clark followed up with an email stating the same and again attaching the
3 proposed, requisite documentation. (*Id.* at ¶ 6 and Exh. A.) At approximately 11:00am. Mr. Mapes
4 replied via email that his clients would not permit him to grant the requested extension. (*Id.* at ¶ 7
5 and Exh. A.) Mr. Mapes followed up with a phone call stating the same – his clients declined – and
6 stating that because the FAC is so similar to the original complaint, an extension shouldn't be
7 necessary. (*Id.* at ¶ 8.) No further reason or asserted prejudice to Plaintiffs was identified. (*Ibid.*)
8 Mr. Mapes emailed later that, while Plaintiffs are still not agreeable to an extension, he “will not
9 file a written opposition.” (*Id.* at ¶ 8 and Exh. A.) Thus, a stipulation with Plaintiffs to extend time
10 could not be reasonably obtained. (*Id.* at ¶ 9.)

11 This extension is necessary due to the press of business, counsel's resulting scheduling
12 conflicts, and because Defendants are still gathering documents and other information related to
13 the civil RICO cause of action added to the FAC, where the original complaint had no such cause
14 of action. (Clark Decl., ¶ 10.) Research on the wholly unique cause of action, gathering of requisite
15 documentation dating back to the land use and transfer events alleged in the FAC as early as 1987
16 is complex. (*Ibid.*) Evaluation and analysis is cumbersome and time consuming, especially where
17 Defendants are a small public agency in the rural Tahoe area so the gathering and provision of
18 documents is nearly impossible while still trying to maintain business as usual. (*Ibid.*) Defendants
19 require more time to prepare their response. (*Id.* at ¶¶ 11-12.) Indeed, this extension will behoove
20 Plaintiffs and the Court since it will provide Plaintiffs additional time to fully respond, as Mr.
21 Mapes has a trial in October that he must schedule for, and the benefit to the Court in more fulsome
22 and well supported motions and responses further warrants this brief extension. (*Id.* at ¶ 13.)

23 Notably, as especially relevant here, the Eastern District, on motion for shortened time to
24 respond to amended complaint, ruled:

25 The Court does not find a twenty-eight day extension of time will unnecessarily delay this
26 recently filed action. This Court encourages thoughtful and well-supported motions and
27 mandates that parties thoroughly meet and confer in good faith prior to filing those motions.
28 The Court does not encourage gamesmanship, nor does it appreciate any party's refusal to
act in good faith. Thus, Plaintiff's additional reasoning for declining the extension of time—that “since [Ms. Sperling is] an attorney, [she] should be able to respond by July 7”—is not
well-taken. In light of Plaintiff's filing of the first amended complaint and for the reasons

1 proffered by the State Bar Defendants, the Court finds good cause to grant the State Bar
2 Defendants' 28-day extension of time to file a responsive pleading
3 (*Singer v. Waters* (E.D. Cal. June 27, 2025) No. 1:25-CV-00532-KES-SAB 2025 WL 1789096, at
4 *2.) The same applies here; Defendants counsel simply seeks a brief extension – shorter than 28
5 days in *Singer* – to fully and sufficiently address the legal issues raised in the FAC and as an
6 accommodation to the scheduling conflicts addressed in the accompanying affidavit of counsel.
7 (Clark Decl., ¶¶ 11-12.)

8 As such, Defendants respectfully seek leave of court for an extension to file a responsive
9 pleading. Specifically, Defendants respectfully request an extension from August 28, 2025, to
10 September 11, 2025 to file a responsive pleading and that Plaintiffs receive a seven-day extension
11 to respond to Defendants' responsive pleading as well.

12 Respectfully Submitted,

13 Dated: August 25, 2025

BEST BEST & KRIEGER LLP

14
15 By: /s/ Olivia Clark
16 KEVIN FLAUTT
17 OLIVIA CLARK

18 Attorneys for Defendants
19 TRUCKEE SANITARY DISTRICT, BLAKE
20 TRESAN, and BRIAN SMART

[PROPOSED] ORDER

The Court hereby grants Defendants' request for an extension of time to provide a response to Plaintiffs' First Amended Complaint. The deadline is now Thursday, September 11, 2025.

The Court hereby grants Defendants' request for Plaintiffs' extension of time to provide a response to Defendants' response(s) to the FAC. The deadline is extended seven (7) calendar days.

IT IS SO ORDERED.

Dated: August 26, 2025

Allison Claire
ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE